IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

MONDAY, THE 5TH MARCH 2007 / 14TH PHALGUNA 1928

WP(C).No. 23622 of 2005(K)

PETITIONER:

T.K. RAHMATHULLA, KAKKU TIMBERS,
MAIN ROAD, NILAMBUR, MALAPPURAM DISTRICT.

BY ADV. SRI.K.M.SATHYANATHA MENON

RESPONDENTS:
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1. STATE OF KERALA, REPRESENTED BY THE SECRETARY (TAXES), SECRETARIAT, THIRUVANANTHAPURAM.

2. THE DIVISIONAL FOREST OFFICER, OLAVAKKODE, PALAKKAD.

3. THE COMMISSIONER OF TAXES, AGRICULTURAL INCOME TAX, THIRUVANANTHAPURAM.

4. THE SALES TAX OFFICER, NILAMBUR, MALAPPURAM.

BY GOVERNMENT PLEADER SRI. MUHAMMED RAFIQ

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 05/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 23622/2005 K

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE R2.

EXT.P2. COPY OF THE ORDER OF THE R3 TO THE R2.

EXT.P3. COPY OF THE COMMUNICATION SENT BY THE R2 TO THE CONSERVATOR OF FOREST, PALAKKAD DT. 23/5/2003.

EXT.P4. COPY OF THE LETTER SENT BY THE R2 TO THE PETITIONER DT. 28/08/2003.

EXT.P5. COPY OF THE COMMUNICATION SENT BY THE R2 TO THE R3.

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K.BALAKRISHNAN NAIR,J.

WP(C)NO.23622 OF 2005-K

Judgment

The petitioner prays for refund of the additional sales tax remitted by the petitioner under Section 5D of the KGST Act. The said Section was enforced only with effect from 01.07.2003. But, the petitioner paid tax to the tune of Rs.1,02,145/- by way of additional tax between 01.04.2003 to 30.06.2003. But, the Legislature has passed KGST Amendment Act, 2003 (Act 7 of 2003) providing that the amounts already collected between 01.04.2003 to 30.06.2003 need not be refunded. In view of the said legislation, the claim of the petitioner cannot be granted. Accordingly, the Writ Petition is dismissed.

05.03.2007 **K.BALAKRISHNAN NAIR,JUDGE**

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